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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

50557

FILE: B-182920

DATE: February 19, 1975

MATTER OF: American Mutual Protective Bureau

**DIGEST:**

Protester is untimely under 4 C.F.R. 20.2(a) where letter of protest to GAO was not received until two months after notice of initial adverse agency action, contrary to timeliness requirement that appeal to GAO be filed within five work days from notice of adverse action by agency.

This decision involves the protest of American Mutual Protective Bureau (AMPB) against the General Services Administration's (GSA) award of a contract for guard patrol services under invitation for bids (IFB) No. PBS-BMD-75-0001-DB. AMPB's protest is based upon its contention that the two low bids submitted in response to the IFB are nonresponsive in that the prices offered are unreasonably low.

Bids received in response to the IFB were opened on September 24, 1974. By letter received at GSA on October 7, 1974, AMPB filed its protest with the contracting agency. Award under the IFB was nevertheless made on October 23, 1974, and by letter of that same date the GSA so advised AMPB and responded as well to the protester's October 2nd letter, informing AMPB that it found award to the low bidder to be justified. By telegram of October 30, 1974, addressed to the GSA, AMPB requested further consideration of its protest at the agency.

Having apparently concluded that a further determination from the contracting agency would be less than satisfactory, AMPB sought to protest to this Office. Its protest letter dated November 26, 1974, which was misaddressed to the "Comptroller General, General Services Administration," was not received in this Office until December 23, 1974, when it was duly referred here by the GSA.

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Relative to the time limits for filing of protests, subsection 20.2 of our Interim Bid Protest Procedures and Standards, 4 C.F.R. 20.2(a), provides:

"§ 20.2 Time for filing.

(a) Protesters are urged to seek resolution of their complaints initially with the contracting agency. Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of proposals shall be filed prior to bid opening or the closing date for receipt of proposals. In other cases, bid protests shall be filed not later than 5 days after the basis for protest is known or should have been known, whichever is earlier. If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 5 days of notification of adverse agency action will be considered provided the initial protest to the agency was made timely. The term 'filed' as used in this section means receipt in the contracting agency or in the General Accounting Office as the case may be and protesters are, therefore, cautioned that protests should be transmitted or delivered in that manner which will assure earliest receipt."

Under the above regulations, AMPB's protest to this Office appears to be untimely. AMPB initially protested to the contracting agency on October 7, 1974. Where a protest has been initially filed with the contracting agency any subsequent protest to the General Accounting Office must be filed within five work days of notification of adverse action by the agency. In this case, AMPB failed to effect a timely appeal to this Office within five working days from the GSA's initial adverse action as indicated by award of the contract on October 23, 1974, and GSA's letter of that same date addressed to the protester. B-178204, October 10, 1973; B-181262, September 4, 1974; 52 Comp. Gen. 20 (1972). AMPB's letter of protest to this Office was not received until more than two months thereafter and while receipt of that letter was delayed by the fact that it was misaddressed, it was not dispatched for more than a month after notification of the agency's adverse action.

For the foregoing reasons, AMPB's protest must be regarded as having been untimely filed and as such may not be considered.

  
Deputy Comptroller General  
of the United States